

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JACOB K. BACKMAN,

Plaintiff,

v.

CLALLAM COUNTY CORRECTIONS
CENTER,

Defendant.

Case No. C24-5543-DGE-SKV

ORDER DIRECTING SERVICE OF
CIVIL RIGHTS COMPLAINT

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding with this action pro se and *in forma pauperis*. The Court, having reviewed Plaintiff's complaint, hereby ORDERS as follows:

(1) Service by Clerk

The Clerk is directed to send the following to the named defendants by first class mail: a copy of Plaintiff's complaint, a copy of this Order, two copies of the notice of lawsuit and request for waiver of service of summons, a waiver of service of summons, and a return envelope, postage prepaid, addressed to the Clerk's Office.

(2) Response Required

Defendant(s) shall have **thirty (30) days** within which to return the enclosed waiver of service of summons. A defendant who timely returns the signed waiver shall have **sixty (60) days**

1 after the date designated on the notice of lawsuit to file and serve an answer to the complaint or a
2 motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

3 A defendant who fails to timely return the signed waiver will be personally served with a
4 summons and complaint and may be required to pay the full costs of such service, pursuant to Rule
5 4(d)(2) of the Federal Rules of Civil Procedure. A defendant who has been personally served shall
6 file an answer or motion permitted under Rule 12 within **twenty-one (21) days** after service.

7 (3) Filing and Service by Parties, Generally

8 All attorneys admitted to practice before this Court are required to file documents
9 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,
10 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF.
11 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original
12 with the Clerk. All filings, whether filed electronically or in traditional paper format, must indicate
13 in the upper righthand corner the name of the magistrate judge to whom the document is directed.

14 Any document filed with the Court must be accompanied by proof that it has been served
15 upon all parties that have entered a notice of appearance in the underlying matter.

16 (4) Motions, Generally

17 Any request for court action shall be set forth in a motion, properly filed and served.
18 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a
19 part of the motion itself and not in a separate document. The motion shall include in its caption
20 (immediately below the title of the motion) a designation of the date the motion is to be noted for
21 consideration upon the Court's motion calendar.

22 The motion shall be noted in accordance with LCR 7(d). Motions including stipulated
23 and agreed motions, motions to file over-length motions or briefs, motions for reconsideration,

1 joint submissions pursuant to the optional procedure established in LCR 37(a)(2), motions for
2 default, requests for the clerk to enter default judgment, ex parte motions, motions to recuse, and
3 motions for a temporary restraining order shall be noted for consideration on the day they are
4 filed. LCR 7(d)(1). Other non-dispositive motions shall be noted for consideration no earlier
5 than 21 days from the date of filing. LCR 7(d)(3). All dispositive motions, and motions such as
6 a motion seeking a preliminary injunction or a motion directed toward changing the forum, shall
7 be noted for consideration no earlier than 28 days after filing. LCR 7(d)(4).

8 For electronic filers, any opposition to a non-dispositive motion shall be filed and
9 received by the moving party no later than 15 days after the filing date of the motion, and any
10 reply shall be filed and received by the opposing party no later than 21 days after the filing date
11 of the motion. LCR 7(d)(3). Any opposition to a dispositive motion by an electronic filer shall
12 be filed and received by the moving party no later than 21 days after the filing date of the motion
13 and any reply shall be filed and received by the opposing party no later than 28 days after the
14 filing date of the motion. LCR 7(d)(4).

15 If a party (i.e. a *pro se* litigant and/or prisoner) serves an opposition by mail, the deadline
16 for filing and serving such opposition shall be 3 days earlier than the deadlines provided in LCR
17 7(d)(3) and 7(d)(4).

18 (5) Motions to Dismiss and Motions for Summary Judgment

19 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil
20 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil
21 Procedure should acquaint themselves with those rules. As noted above, these motions shall be
22 noted for consideration no earlier than 28 days after filing.
23

Defendants filing motions to dismiss or motions for summary judgment are advised that they MUST serve a *Rand* notice concurrently with motions to dismiss and motions for summary judgment so that *pro se* prisoner plaintiffs will have fair, timely and adequate notice of what is required of them in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set forth model language for such notices:

A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact – that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, **you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.**

Rand v. Rowland, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added). Defendants who fail to file and serve the required *Rand* notice on plaintiff may have their motion stricken from the Court's calendar with leave to re-file.

(6) Direct Communications with District Judge or Magistrate Judge

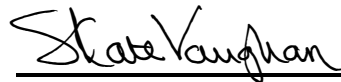
No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

(7) The Court believes it is important to provide substantive opportunities to junior attorneys, and that the benefits of doing so will accrue to all members of the profession and their clients. To that end, the Court encourages litigants to permit junior attorneys to be active

1 participants in court proceedings, including arguing motions they have helped prepare and
2 questioning witnesses with whom they have worked. This Court may permit multiple attorneys to
3 argue for one party if this creates an opportunity for a junior attorney to participate.

4 (8) The Clerk is directed to send copies of this Order and of the Court's pro se
5 instruction sheet to plaintiff. The Clerk is further directed send a copy of this Order and a courtesy
6 copy of Plaintiff's complaint to the Clallam County Prosecuting Attorney's Office, by first-class
7 mail.

8 Dated this 23rd day of August, 2024.

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10 S. KATE VAUGHAN
11 United States Magistrate Judge
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